

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

CIV 06-467 MV/CEG
CR 01-171 MV

JASON LOSSIAH,

Defendant-Movant.

ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

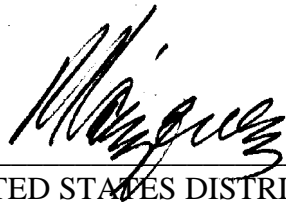
The Magistrate Judge filed her Proposed Findings and Recommended Disposition on October 26, 2006. *See Doc. 14*. Lossiah filed his objections to the Proposed Findings and Recommended Disposition on November 17, 2007. *See Doc. 15*. I have carefully reviewed Lossiah's lengthy objections *de novo* and find that he is not raising anything that was not raised in his § 2255 motion or his memorandum in support of his § 2255 motion. *See Docs. 1 and 2*. Lossiah fails to understand that his motion for acquittal was denied and that his motion for a new trial was granted. *See Doc. 94 of 01-CR-171*. The Court granted the motion for a new trial under Rule 33 for two reasons: improper admission of Rule 414 evidence and the insufficiency of the evidence. *Id.* The sufficiency ruling was based on a less stringent standard than a Rule 29 motion for acquittal standard. *Id.* at 8. That is, the Court considered the credibility of the witnesses and weighed the evidence as a thirteenth juror. *Id.* In so finding, the Court did not conclude that no rational juror could have found Lossiah guilty beyond a reasonable doubt. *Id.* at 4, 8. As a result, the Double Jeopardy clause has not been violated.

I concur with the Magistrate Judge's Proposed Findings and Recommended Disposition and find Lossiah's objections to be without merit.

Wherefore,

IT IS HEREBY ORDERED THAT:

- 1) the Magistrate Judge's Proposed Findings and Recommended Disposition (*Doc. 14*) are adopted;
- 2) the § 2255 motion to vacate, set aside, or correct sentence (*Doc. 1*) is denied; and
- 3) civil case number 06-0467 MV/CEG is dismissed with prejudice.



UNITED STATES DISTRICT JUDGE